would suffer from not having had notice. *Bank* v. *Drake*, 79 N. W. Rep. 121. The cases in which this statement is made, however, are almost universally cases of continuing guaranties. Nevertheless, in Massachusetts, it is clearly settled that lack of notice of default to a guarantor of a promissory note discharges him to the amount of the resulting injury. *Bank* v. *Haynes*, 25 Mass. 423. Such, also, seems to have been the early English law. *Philips* v. *Astling*, 2 Taunt. 206. See, also, *Tiffany* v. *Willis*, 30 Hun 266.

As to the cases of continuing guaranties, there may well be a different rule. For in such cases the time when the liability accrues is uncertain, and often peculiarly within the knowledge of the person receiving the guaranty. The subject-matter, also, is not one definite act. On the other hand, in the principal case, the guarantor could be in no doubt as to when, if at all, his liability accrued, nor for what he was liable. If the tenant does not pay at a settled time, the guarantor is bound, whereas, in the case of a continuing guaranty, it is impossible for him to tell when a default may occur. The argument from analogy, therefore, is weakened. Moreover, the few authorities found directly in point, aside from the promissory note cases cited, appear to be in accord with the principal decision. *Heyman* v. *Dooley*, 77 Md. 162; *Hungerford* v. *O'Brien*, 37 Minn. 306; Ames, Cas. Suretyship, 239. If notice is desired as a matter of business convenience, it may always be stipulated for in the contract, and in the absence of any such stipulation, the result reached in the principal case seems sound.

Jurisdiction in Divorce Proceedings. — The judgment in divorce proceedings operates directly upon the status of the parties, and thus it is everywhere recognized that jurisdiction in such proceedings belongs only to the state where the parties are domiciled. *Sewall* v. *Sewall*, 122 Mass. 156. In general, from the nature of the marriage relation, the domicil of a married woman follows that of her husband. *Barber* v. *Barber*, 21 How. 582. For purposes of divorce, however, an exception has been made, the wife being allowed to sue for separation at the domicil of the marriage, even though her offending husband had acquired a new domicil. *Harteau* v. *Harteau*, 14 Pick. 181. It would seem that this exception, however, required no further extension in order to fulfil its object of protecting the wife against the injustice of being compelled to follow a husband to every new domicil in order to obtain her freedom. Yet nearly everywhere in this country she is allowed to acquire a new and separate domicil for the purpose of instituting divorce proceedings, though for that purpose only. *Hunt* v. *Hunt*, 72 N. Y. 217. This doctrine has given rise to certain difficulties, not always satisfactorily treated by the courts, which are well illustrated by a recent New York decision. A wife left her husband who was domiciled in New York, and went to Oklahoma for the purpose of obtaining a divorce. On obtaining this she remarried and returned. Subsequently, on suit for divorce by the original husband in New York, it was held that this foreign divorce was invalid and no defence to this suit. *Winston* v. *Winston*, 165 N. Y. 553.

The decision follows the settled New York rule that a judgment of divorce against a non-appearing, non-resident defendant has no effect upon the latter's status, since it is granted without personal service. Yet

if there is jurisdiction over the plaintiff, as must be the case if she has acquired a domicil, the decree will be effective as to her status, and consequently under this rule the husband is married but the wife is not. *People* v. *Baker*, 76 N. Y. 78. See *Dunham* v. *Dunham*, 162 Ill. 589, 606. The difficulty of service on which this New York doctrine is based is, however, purely imaginary, and the Supreme Court has very recently quite properly overruled this doctrine so far as it concerns the states of this country, on the ground that it does not give full faith and credit to the decrees of another state. *Atherton* v. *Atherton*, U. S. Sup. Ct.; decided April 15, 1901. Jurisdiction for divorce is more properly not personal, but *quasi in rem*, and therefore no personal service is required, but only the best possible practical notification to the defendant of the pendency of the suit. *Doughty* v. *Doughty*, 27 N. J. Eq. 315; Minot, Conflict of Laws, §§ 87, 94. This follows from the source of the jurisdiction and the nature of the subject-matter. For, since domicil of the plaintiff gives jurisdiction over her status, if the decree is to have any effect at all, it must likewise operate upon that of the defendant, as the status is a correlative one and cannot exist except there be two parties to it. But this personal element of the proceedings cannot be entirely disregarded, and thus it is only requisite that the defendant be given a reasonable chance to come in and defend the suit. If this is done, the decree is valid and entirely dissolves the marriage.

The invalidity of the decree in the above case, however, may be readily supported upon another ground, not adequately noticed by the court. It appears that no domicil was ever obtained in Oklahoma by the wife, and thus on this ground the decree was clearly void as to all parties. No domicil can ever be acquired by a person going to another state merely with the intention of obtaining a divorce and then returning, for there cannot be found in such cases the requisite *bona fide* intention to make a permanent change of home. *Jennison* v. *Hapgood*, 10 Pick. 77, 98. It makes no difference that the statutes of the state provide for granting of divorces upon a residence within the state of a fixed number of days. That can give no jurisdiction which another state ought to recognize. Divorces granted in all such states except to parties *bona fide* domiciled therein are utterly void, and should be fearlessly treated so everywhere. *Bell* v. *Bell*, U. S. Sup. Ct.; decided April 15, 1901. Such action would have a wholesome effect upon the all too loose divorce conditions existing in this country to-day.

CONTROVERSIES BETWEEN STATES. — When the Constitution was first adopted, the individual states comprising the Union gave up many rights usually enjoyed by independent states, as, for example, the right to make treaties or to declare war. In view of this, the Constitution gave the United States Supreme Court jurisdiction in all suits to which a state should be a party, and thus virtually put the states on the same footing as private corporations in regard to the right to sue or be sued. But under this clause suits were brought against states by private individuals, and as this was thought to infringe upon their rights as sovereign states, the Eleventh Amendment was passed taking away from the United States courts their jurisdiction in such cases. This amendment has, however, introduced an interesting question as to what may constitute the subject-